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PATENT  
1817-0105P

GU 1623

IN THE U.S. PATENT AND TRADEMARK OFFICE

Applicants: Igor SHVETS et al. Conf.: 6900  
Serial No.: 09/750,348 Group: 1623  
Filed: December 29, 2000 Examiner: R. Gitomer  
For: BIOLOGICAL ASSAYS

SMALL ENTITY TRANSMITTAL FORM

Assistant Commissioner for Patents  
Washington, DC 20231

December 21, 2001

Sir:

Transmitted herewith is a Reply to Restriction/Election Requirement in the above-identified application.

- ☐ The enclosed document is being transmitted via the Certificate of Mailing provisions of 37 C.F.R. § 1.8.
- ☐ Petition for \_\_\_\_\_ ( ) month(s) extension of time pursuant to 37 C.F.R. §§ 1.17 and 1.136(a). \$0.00 for the extension of time.
- ☒ No fee is required.
- ☐ A check in the amount of \$0.00 is enclosed.
- ☐ Please charge Deposit Account No. 02-2448 in the amount of \$0.00. A triplicate copy of this sheet is attached.

Serial No.: 09/750,348

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By 

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1-18-02  
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Applicants: Igor SHVETS et al. Conf.: 6900  
Serial No.: 09/750,348 Group: 1623  
Filed: December 29, 2000 Examiner: R. Gitomer  
For: BIOLOGICAL ASSAYS

**RESPONSE TO EXAMINER'S RESTRICTION REQUIREMENT**

Assistant Commissioner for Patents  
Washington, DC 20231

December 21, 2001

Sir:

In response to the Examiner's Restriction Requirement dated November 23, 2001, the following election and remarks are respectfully submitted in connection with the above-identified application.

**IN THE CLAIMS:**

Applicants hereby elect Group I consisting of claims 1-64 for initial examination in this application. This election is with traverse.

**REMARKS**

Applicants thank the Examiner for the thorough consideration given the present application. Claims 1-108 are currently being prosecuted. The Examiner is respectfully requested to reconsider his restriction requirement in view of the amendments and remarks as set forth hereinbelow.



**ELECTION OF CLAIMS**

The Examiner has set forth a restriction requirement with regard to claims 1-8.

The grouping of the claims is set forth as follows:

<u>GROUP</u>	<u>CLAIMS</u>	<u>CLASSIFICATION</u>
I	1-64	Class 435, Subclass 4
II	65-108	Class 422, Subclass 50 Class 435, Subclass 288.5 Class 257, Subclass 3

In order to be responsive to the Examiner's restriction requirement, applicants have elected claims 1-64 (Group I) for initial examination. However, it is respectfully submitted that the restriction requirement is improper and no serious burden is presented to the Examiner to consider all of the claims in a single application.

In addition to the above reasons to consider all of the claims in a single application, as set forth in Section 803 of the MPEP, the Examiner must examine an application on the merits if the examination of the entire application can be made without serious burden. Two criteria are identified for proper requirement for restriction:

1. The inventions must be independent or distinct as claimed; and
2. There must be a serious burden on the Examiner if the restriction is not required.

Applicants respectfully submit that a serious burden has not been placed on the Examiner to consider all of the claims in a single application. A review of the subject matter set forth in claims 1-108 would include a review of all classes 435, 422, 435 and 257. Thus, a different field of search really does not exist with regard to the claims of

the present application.

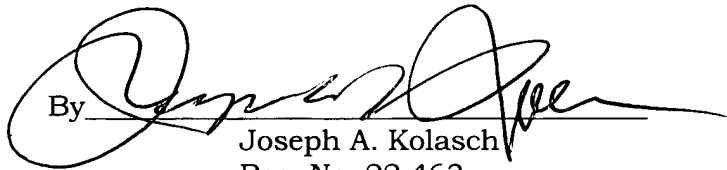
In order to be responsive to the Examiner's restriction requirement, claims 1-64 have been initially elected. The Examiner is respectfully requested to reconsider his restriction requirement and act on all of the claims in the present application. If the Examiner does persist in his restriction requirement, Applicants reserve the right to file divisional applications directed to claims 65-108 at a later date if they so desire.

Favorable action on the present application is earnestly solicited.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By   
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